

The majority of utility taxes imposed by a municipality are administered at the local level by the municipality itself and not by the Illinois Department of Revenue. The Department does administer the Simplified Municipal Telecommunications Tax on behalf of municipalities, which tax may be imposed at a rate of up to 6% by a municipality by ordinance and is in addition to the 7% State-imposed telecommunications tax imposed under the Telecommunications Excise Tax Act. See 35 ILCS 636/5-1 et seq. (This is a GIL.)

January 14, 2005

Dear Xxxxx:

This letter is in response to your fax dated May 3, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

In contacting the Local Tax Allocation Division and the Excise Tax Division of the Illinois Department of Revenue with some questions regarding the utility taxes for a municipality, I was referred to your office as possibly being able to help me.

I am a new associate of the attorney for the Village. I have been asked to determine whether or not the Village may raise their utility taxes and to what extent they may be raised. Particularly the Village has asked what the allowable maximum tax rates are for water, gas, electricity and cable and whether a maintenance or use fee may be charged as well. I am then to draft amendments to the Village's Ordinance to increase the tax rates if possible.

In my research I found that the Illinois Department of Revenue has a Telecommunication Tax Rate Reference Manual that lists the combined telecommunications tax rates that may be charged for all of the individual municipalities in Illinois. Is there another source of information that sets out the rates municipalities may charge for other utilities? I have looked at the Illinois statutes that seem to be

applicable, but I am not a tax expert and not familiar enough with the law to be comfortable in advising the Village on this matter.

Please contact me if you have any information that may be of help to me.

DEPARTMENT'S RESPONSE:

I apologize for the delay in responding to your request. You have inquired concerning what utility taxes may be imposed by a municipality. The majority of utility taxes imposed by a municipality are administered at the local level by the municipality itself and not by the Illinois Department of Revenue. As to those taxes, I cannot provide you assistance. The Department does, though, administer the Simplified Municipal Telecommunications Tax on behalf of municipalities. This tax may be imposed by a municipality by ordinance and is in addition to the 7% State-imposed telecommunications tax imposed under the Telecommunications Excise Tax Act (35 ILCS 630/1 et seq.).

The Simplified Municipal Telecommunications Tax Act (35 ILCS 636/5-1 et seq.) authorizes a municipality to impose a tax at a rate of up to 6% (in ¼% increments) upon the act or privilege of originating in the municipality or receiving in the municipality intrastate or interstate telecommunications. This tax became effective on January 1, 2003 and replaced the municipal tax on transmitting messages under 65 ILCS 5/8-11-2, the municipal telecommunications tax under 65 ILCS 5/8-11-17, the optional municipal infrastructure maintenance fee under 35 ILCS 635/15, and the municipal infrastructure maintenance fee under 35 ILCS 635/20, which were all repealed. A municipality may impose, increase, or decrease this tax by ordinance. A certified copy of an ordinance meeting the requirements of the statute must be filed with the Department on or before March 20 of any year for administration by the Department beginning on July 1 of that year or filed by September 20 of any year for administration by the Department beginning on January 1 of the following year.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk